

1 A bill to be entitled
 2 An act relating to massage establishments; amending s.
 3 480.047, F.S.; revising penalty provisions; creating
 4 s. 480.0475, F.S.; providing legislative intent;
 5 prohibiting the operation of a massage establishment
 6 between certain hours; providing exceptions;
 7 prohibiting the use of a massage establishment as a
 8 principal domicile; providing penalties; amending s.
 9 823.05, F.S.; providing that a massage establishment
 10 operating in violation of specified provisions is a
 11 nuisance that may be abated or enjoined; providing an
 12 effective date.

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 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Section 480.047, Florida Statutes, is amended
 17 to read:

18 480.047 Penalties.—

19 (1) It is unlawful for any person to:

20 (a) Hold himself or herself out as a massage therapist or
 21 to practice massage unless duly licensed under this chapter or
 22 unless otherwise specifically exempted from licensure under this
 23 chapter.

24 (b) Operate any massage establishment unless it has been
 25 duly licensed as provided herein, except that nothing herein
 26 shall be construed to prevent the teaching of massage in this
 27 state at a board-approved massage school.

28 (c) Permit an employed person to practice massage unless

29 | duly licensed as provided herein.

30 | (d) Present as his or her own the license of another.

31 | (e) Allow the use of his or her license by an unlicensed
32 | person.

33 | (f) Give false or forged evidence to the department in
34 | obtaining any license provided for herein.

35 | (g) Falsely impersonate any other licenseholder of like or
36 | different name.

37 | (h) Use or attempt to use a license that has been revoked.

38 | (i) Otherwise violate any of the provisions of this act.

39 | (2) Except as otherwise provided in this chapter, any ~~Any~~
40 | person violating the provisions of this section is guilty of a
41 | misdemeanor of the first degree, punishable as provided in s.
42 | 775.082 or s. 775.083.

43 | Section 2. Section 480.0475, Florida Statutes, is created
44 | to read:

45 | 480.0475 Massage establishments; prohibited practices.—

46 | (1) The Legislature recognizes that the while the majority
47 | of massage establishments are operated by law-abiding citizens,
48 | a small number of these establishments are operated by persons
49 | who use the establishment as a place to engage in illegal
50 | activities, such as human trafficking and prostitution. It is
51 | the intent of the Legislature to protect the public and the
52 | state's massage profession and reputation from persons operating
53 | massage establishments that are engaged in illegal activity. It
54 | is also the intent of the Legislature that the perpetrators of
55 | human trafficking be penalized for their illegal conduct and
56 | that the victims of trafficking be protected and assisted by

57 this state and its agencies.

58 (2) No person may operate a massage establishment between
 59 the hours of 10:00 p.m. and 6:00 a.m. This subsection does not
 60 apply to a massage establishment:

61 (a) Located on the premises of a health care facility as
 62 defined in s. 408.07; or a hotel, motel, or a bed and breakfast
 63 inn, as those terms are defined in s. 509.242; and

64 (b) In which every massage performed between the hours of
 65 10:00 p.m. and 6:00 a.m. are performed by a massage therapist
 66 acting under the direction of a physician or physician assistant
 67 licensed under chapter 458; an osteopathic physician or
 68 physician assistant licensed under chapter 459; a chiropractic
 69 physician licensed under chapter 460; a podiatric physician
 70 licensed under chapter 461; an advanced registered nurse
 71 practitioner, licensed under part I of chapter 464; or a dentist
 72 licensed under chapter 466.

73 (3) No person operating a massage establishment may use or
 74 permit such establishment to be used as a principal domicile,
 75 unless the establishment is zoned for residential use under
 76 local ordinance.

77 (4) Any person violating the provisions of this section
 78 commits a misdemeanor of the first degree, punishable as
 79 provided in s. 775.082 or s. 775.083. A third or subsequent
 80 violation of this section is a felony of the third degree,
 81 punishable as provided in s. 775.082, s. 775.083 or s. 775.084.

82 Section 3. Section 823.05, Florida Statutes, is amended to
 83 read:

84 823.05 ~~Places and groups engaged in criminal gang related~~

85 ~~activity~~ declared a nuisance; may be abated and enjoined.-

86 (1) Whoever shall erect, establish, continue, or maintain,
87 own or lease any building, booth, tent or place which tends to
88 annoy the community or injure the health of the community, or
89 become manifestly injurious to the morals or manners of the
90 people as described in s. 823.01, or any house or place of
91 prostitution, assignation, lewdness or place or building where
92 games of chance are engaged in violation of law or any place
93 where any law of the state is violated, shall be deemed guilty
94 of maintaining a nuisance, and the building, erection, place,
95 tent or booth and the furniture, fixtures, and contents are
96 declared a nuisance. All such places or persons shall be abated
97 or enjoined as provided in ss. 60.05 and 60.06.

98 (2) (a) As used in this subsection, the terms "criminal
99 gang," "criminal gang member," "criminal gang associate," and
100 "criminal gang-related activity" have the same meanings as
101 provided in s. 874.03.

102 (b) A criminal gang, criminal gang member, or criminal
103 gang associate who engages in the commission of criminal gang-
104 related activity is a public nuisance. Any and all such persons
105 shall be abated or enjoined as provided in ss. 60.05 and 60.06.

106 (c) The use of a location on two or more occasions by a
107 criminal gang, criminal gang members, or criminal gang
108 associates for the purpose of engaging in criminal gang-related
109 activity is a public nuisance. Such use of a location as a
110 public nuisance shall be abated or enjoined as provided in ss.
111 60.05 and 60.06.

112 (d) Nothing in this subsection shall prevent a local

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113 governing body from adopting and enforcing laws consistent with
114 this chapter relating to criminal gangs and gang violence. Where
115 local laws duplicate or supplement this chapter, this chapter
116 shall be construed as providing alternative remedies and not as
117 preempting the field.

118 (e) The state, through the Department of Legal Affairs or
119 any state attorney, or any of the state's agencies,
120 instrumentalities, subdivisions, or municipalities having
121 jurisdiction over conduct in violation of a provision of this
122 chapter may institute civil proceedings under this subsection.
123 In any action brought under this subsection, the circuit court
124 shall proceed as soon as practicable to the hearing and
125 determination. Pending final determination, the circuit court
126 may at any time enter such injunctions, prohibitions, or
127 restraining orders, or take such actions, including the
128 acceptance of satisfactory performance bonds, as the court may
129 deem proper.

130 (3) A massage establishment, as defined in s. 480.033, that
131 operates in violation ss. 480.0475 or 480.0535(2), is declared a
132 nuisance. Such establishment may be abated or enjoined as
133 provided in ss. 60.05 and 60.06.

134 Section 4. This act shall take effect October 1, 2013.